

1 Stacey M. Leyton (SBN 203827)
2 Barbara J. Chisholm (SBN 224656)
3 Danielle Leonard (SBN 218201)
4 ALTSHULER BERZON LLP
5 177 Post Street, Suite 300
6 San Francisco, CA 94108
7 Tel. (415) 421-7151
8 Fax (415) 362-8064
9 sleyton@altber.com
10 dleonard@altber.com
11 bchisholm@altber.com

12 Elena Goldstein (pro hac vice)
13 Skye Perryman (pro hac vice)
14 DEMOCRACY FORWARD FOUNDATION
15 P.O. Box 34553
16 Washington, DC 20043
17 Tel: (202) 448-9090
18 Fax: (202) 796-4426
19 egoldstein@democracyforward.org
20 sperryman@democracyforward.org

21 *Attorneys for Plaintiffs*

22 [Additional Counsel not listed]

23 UNITED STATES DISTRICT COURT
24 FOR THE NORTHERN DISTRICT OF CALIFORNIA
25 SAN FRANCISCO DIVISION

26 AMERICAN FEDERATION OF
27 GOVERNMENT EMPLOYEES, AFL-CIO, et
28 al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 3:25-cv-03698-SI

**DECLARATION OF BRIAN D.
GARTHWAITE, PH.D.**

DECLARATION OF BRIAN D. GARTHWAITE, PH.D.

I, Brian D. Garthwaite, Ph.D., declare as follows:

1. I am over 18 years of age and competent to give this declaration. This declaration is based on my personal knowledge, information, and belief. I make this declaration in my capacity as president of AFGE Local 3381.

2. Until April 19, 2025, I was a Compliance Officer for the Food and Drug Administration (“FDA” or “Agency”), which is part of the U.S. Department of Health and Human Services (“HHS” or “Department”). I worked for the FDA for 25 years. The FDA is responsible for protecting the public health by ensuring the safety, efficacy, and security of human and animal drugs, biological products, and medical devices; and by ensuring the safety of our nation’s food supply, cosmetics, and products that emit radiation.

3. I am the president of the American Federation of Government Employees Local 3381 (“AFGE Local 3381” or the “Union”).

4. AFGE Local 3381 represents a bargaining unit of 104 nonsupervisory civil servants who work for the FDA in Minnesota, North Dakota, South Dakota, and Wisconsin. These employees include professional and non-professional employees, including field inspectors who work on inspections of food, pharmaceuticals, human biologics, medical devices and other products regulated by the FDA, compliance officers, consumer safety technicians, consumer safety officers, administrative support personnel, and recall coordinators.

5. AFGE Local 3381’s mission is to advocate for and promote the interests of bargaining unit members in their federal employment. As the exclusive bargaining representative of these workers, the Union provides many services to all bargaining unit members. Core functions of the Union include collective bargaining with the agency to obtain a fair and reasonable collective bargaining agreement (“CBA”); filing and negotiating grievances against the agency to enforce the terms and conditions of the CBA; pursuing arbitrations on behalf of workers to enforce the CBA; filing and negotiating unfair labor practice charges against the agency to enforce the Federal Service Labor-Management Relations Statute; and providing other support, guidance, and resources to bargaining unit employees.

1 6. The Union first became aware of President Trump’s plan to conduct “large-scale”
2 RIFs through the February 11, 2025 Executive Order. No one from the Department had said
3 anything about large-scale RIFs to the Union prior to that Order.

4 7. On March 27, 2025, the Union received identical emails from Thomas Nagy, the
5 Chief Human Capital Officer of the Department of Health and Human Services (“HHS”) and
6 Christina Ballance, the Executive Director, National Labor and Employee Relations Office, at
7 HHS, providing the Union notice of the RIF. A true and correct copy of that RIF notice is
8 attached hereto as Exhibit A. According to that notice, the probable effective date of the RIFs was
9 March 27, 2025, and specific notices to employees could be sent as early as Friday, March 28,
10 2025. The emails stated that the RIFs would affect 8,000-10,000 employees, and would be “aimed
11 at administrative positions including human resources, information technology, procurement, and
12 finance. The RIF will also target roles in high-cost regions and employees in programmatic areas
13 that have been determined to be redundant or duplicative with other functions in HHS or across
14 the federal government.”

15 8. On March 27, 2025, the Union also received an email from the HHS News email
16 account, with the subject line “HHS Announces Transformation to Make America Healthy
17 Again.” This email described a “major re-organization of HHS” announced that day
18 (“Reorganization Plan”). According to the Reorganization Plan, HHS plans to downsize from
19 82,000 to 62,000 full time employees through a RIF of 8,000-10,000 employees combined with
20 early retirement and the Fork in the Road deferred resignation program. According to the email,
21 “FDA will decrease its workforce by approximately 3,500 full-time employees, with a focus on
22 streamlining operations and centralizing administrative functions. This reduction will **not** affect
23 drug, medical device, or food reviewers, nor will it impact inspectors.” A true and correct copy of
24 that email is attached hereto as Exhibit B.

25 9. On March 31, the Union received another RIF notice. According to the notice, the
26 proposed effective date of the RIF would be March 30, 2025, and the anticipated number of
27 employees affected in the Union’s bargaining unit were fewer than 5. The notice stated that
28 “[t]his action is being taken in accordance with President Donald Trump’s Executive Order 14210,

1 dated February 11, 2025, and HHS's broader strategy to improve its efficiency and effectiveness
2 to make America healthier." A true and correct copy of the March 31 notice is attached hereto as
3 Exhibit C.

4 10. In the last ten years, there have been three reorganizations at the FDA, although not
5 with substantial RIFs. In my experience, these reorganizations have taken between one and four
6 years to plan and implement. Planning this Reorganization and RIF in less than two months has
7 led to a haphazard process that created chaos within the Agency.

8 11. As far as I am aware, no members of AFGE Local 3381 have been terminated as a
9 part of the announced RIFs. This is consistent with the announced plan not to include drug,
10 medical device, or food reviewers, or inspectors. But the sweeping nature of the cuts across other
11 sectors of the FDA and the chaos of the implementation have had immediate and significant
12 negative impacts on the Union, its members, and the employees it represents. As part of my work
13 as president of the Union, I reached out to members to ask about the impacts they have
14 experienced, and I am providing some of those responses anonymously in this declaration out of
15 concern that they will face retaliation from the FDA if named.

16 12. Cuts to administrative support staff who handle travel have been particularly
17 damaging to the work of the inspectors in the Union's bargaining unit. Inspectors need to visit the
18 sites they are inspecting, and many conduct inspections of foreign facilities as well. Planning and
19 coordinating these trips is complicated and time-consuming, including setting up the necessary
20 visas and planning out trips that can include multiple companies' factories over several weeks.
21 The trip planners who coordinate and support this travel have been terminated in the RIF, meaning
22 inspectors must spend a large amount of their time setting up their own foreign and domestic
23 travel instead of spending that time conducting inspections. In addition, there is no longer a
24 dedicated point of contact in case of emergencies that arise during foreign inspection trips.

25 13. One Consumer Safety Officer ("CSO") who inspects medical facilities told the
26 Union that there are only five remaining employees dealing with all of the travel authorizations
27 and vouchers, plus manning the help email box. All travel requires a travel authorization ("TA"),
28 but flights are being canceled because the TAs are not being reviewed and granted in sufficient

1 time for the inspectors to actually take the planned trips. This same CSO explained that help is not
2 available through the normal channels—inspectors who have sent emails to the travel support’s
3 help email box have gotten bounce-backs. Finally, this CSO described a colleague who had
4 several of her foreign flights canceled, and “was calling in for assistance while trying to do an
5 inspection. As she put it, she can either do inspections or travel but bouncing between both is not
6 acceptable.”

7 14. Another CSO who conducts inspections of human food manufacturers told the
8 Union that he was intending to take a trip to inspect foreign facilities “later this year but now I’m
9 not going to put in for one until this gets figured out.”

10 15. Cuts to the laboratories that analyze samples investigators collect have also
11 immediately harmed the work of the FDA and the safety of consumers. The Reorganization
12 closed four laboratories entirely, in San Juan, Detroit, Alameda, and the Moffett Center in
13 Chicago. Laboratory cuts will slow down the processing of samples—if the samples are analyzed
14 at all—and could delay or even prevent receipt of results that would trigger public warnings,
15 recalls, or other enforcement actions. For example, according to news reports and an email
16 obtained by Reuters, a milk testing program was suspended because the Moffett Center
17 Proficiency Testing Laboratory “is no longer able to provide laboratory support for proficiency
18 testing and data analysis.”¹

19 16. The RIFs have also harmed the employees remaining at the FDA through the
20 terminations of a large number of Human Resources staff, to the point that remaining employees,
21 including those in Local 3381’s bargaining unit, cannot find people to contact for standard
22 workplace questions or issues that arise. The HR personnel who handled requests for reasonable
23 accommodations from employees with disabilities have also been cut, harming disabled
24 employees who have a legal right to engage in a reasonable accommodations process with the
25 FDA.

26
27 ¹ <https://www.reuters.com/business/healthcare-pharmaceuticals/us-fda-suspends-milk-quality-tests-amid-workforce-cuts-2025-04-21/>. A true and correct copy of this article is attached hereto as
28 Exhibit D.

1 17. Finally, the uncertainty of the RIFs and the lack of information provided led some
2 bargaining unit members to leave their jobs entirely. I was aware from the Executive Order and
3 OPM guidance that RIFs were coming to HHS and to FDA but not when they were coming. Prior
4 to announcing and implementing the RIF, HHS and FDA announced and implemented a deferred
5 resignation program (DRP), a voluntary early retirement authorization (VERA), a voluntary
6 separation incentive payment (VSIP), or VERA and VSIP combined to induce employees to
7 separate from government service. Employees represented by the Union were extremely anxious
8 and uncertain about whether their jobs were at risk for the RIF. I know of at least two employees
9 who chose the VSIP because they were worried about their jobs being eliminated by the RIF.
10 Both positions ended up being unaffected, but the offers of VERA and VSIP were made in
11 advance of the specific RIF notices. I planned to continue government service until the end of
12 2027, upon meeting the requirements of age and years of government service for immediate,
13 unreduced retirement. When the Agency announced eligibility requirements for VERA and VSIP,
14 I determined I was eligible for both. For multiple reasons, including the possibility that other
15 earlier-career employees without the option for VERA would be subject to RIF but I might not
16 because of time in government service and performance rating, I chose to take VERA.

17 18. The combination of employees lost through DRP, VERA, VSIP, and the RIFs has a
18 compounding negative impact on the work of the FDA. According to one Retail Food Specialist
19 and Union member, Retail Food Specialists are down 28% across the FDA. Retail Food
20 Specialists are CSOs credentialed under the Food, Drug, and Cosmetic Act, which grants them
21 specific authority. Their work includes collecting sensitive information and trade secrets,
22 responding to disasters to aid in recovery, and helping retail food establishments resume
23 operations. These specialists are front-facing representatives in the field, interacting with industry,
24 state and local public health officials and various law enforcement agencies, such as the FBI,
25 Department of Homeland Security, the United States Secret Service (USSS), and local and state
26 law enforcement. According to this member, the total reductions mean “we are working with a
27 much heavier load and travel is going to be increased as we are covering states much further away
28 from our office location. We have people on the west coast covering the east coast.”

1 19. For all these reasons, HHS was entirely incorrect in stating in the Reorganization
2 Plan that the “reduction will **not** affect drug, medical device, or food reviewers, nor will it impact
3 inspectors.” Vital work of these reviewers and inspectors has been disrupted, threatening the
4 safety of all Americans.

5
6 I declare under penalty of perjury under the laws of the United States that the foregoing is
7 true and correct. Executed May 1, 2025, in Bloomington, Minnesota.

8
9 

10 Brian D. Garthwaite, Ph.D.

Exhibit A

From: [Nagy, Thomas \(OS/IOS\)](#)
To: [Garthwaite, Brian D](#)
Cc: [Ballance, Christina \(OS\)](#)
Subject: HHS RIF - Union Notification
Date: Thursday, March 27, 2025 5:07:56 AM

Dear Union Leader,

This letter serves as formal notification that the Department of Health and Human Services (HHS) will be implementing a Reduction in Force (RIF) of employees across HHS that will likely impact members of your union.

The relevant information for the implementation of the RIF is as follows:

- Probable Effective Date: May 27, 2025
- Type of Employees Affected: The RIF is primarily aimed at administrative positions including human resources, information technology, procurement, and finance. The RIF will also target roles in high-cost regions and employees in programmatic areas that have been determined to be redundant or duplicative with other functions in HHS or across the federal government.
- Competitive Areas Affected: A list of competitive areas is still being finalized. If a collective bargaining agreement with HHS requires notice of competitive areas to a union, HHS will notify that union as soon as possible after the competitive areas are finalized.
- Approximate number of employees affected: 8,000 to 10,000 employees.

This action is being taken in accordance with President Donald Trump's Executive Order 14210, dated February 11, 2025, and HHS's broader strategy to improve its efficiency and effectiveness to make America healthier.

Specific notices to employees may be sent as early as Friday, March 28, 2025.

Questions regarding this Notice should be directed to Christina Balance, Executive Director, National Labor and Employee Relations Office at [REDACTED]@hhs.gov. Please advise if or when the union would like to begin negotiations on impact and implementation.

V/r,

Thomas J. Nagy Jr., MLER

Deputy Assistant Secretary for Human Resources/ Chief Human Capital Officer

Office of Human Resources

Mobil [REDACTED]

FOR OFFICIAL USE - PRIVACY ACT SENSITIVE: In compliance with the Privacy Act of 1974, this electronic transmission may contain confidential information intended only for the person(s) named above. It may be protected from disclosure by applicable law, including the Privacy Act, attorney-client privilege or work product doctrine. Any misuse, distribution or unauthorized disclosure by another person is strictly prohibited and may result in civil and criminal penalties. If you receive this transmission in error please notify the sender at the telephone number or e-mail address above.

Exhibit B

From: [For OS announcements to all of HHS](#) on behalf of [HHS News Do Not Reply \(OS/ASPA\)](#)
To: HHS-NEWS-ALL@LIST.NIH.GOV
Subject: HHS Announces Transformation to Make America Healthy Again
Date: Thursday, March 27, 2025 12:40:21 PM

HHS Employees –

This morning, HHS Secretary Kennedy announced a major re-organization of HHS to support his Make America Healthy Again (MAHA) agenda. The consolidation and cuts are designed not only to reduce wasteful spending, but to make the organization more efficient and more responsive to Americans' needs – including ending the chronic disease epidemic. This restructuring of HHS means the following:

Personnel cuts, centralization of functions, and consolidation of HHS divisions, including:

- 82,000 full-time employees reduced to 62,000
- 28 divisions consolidated to 15
- 10 regional offices consolidated to 5
- Human Resources, Information Technology, Procurement, External Affairs, and Policy will be centralized.

Re-organization of major OP/DIVS that focus on streamlining operations and centralizing administrative functions:

- FDA will decrease its workforce by approximately 3,500 full-time employees. This reduction **will not** affect drug, medical device, or food reviewers, nor will it impact inspectors.
- The CDC will decrease its workforce by approximately 2,400 employees. The Assistant Secretary for Preparedness and Response (ASPR) will move under CDC to enhance coordination of response efforts. This move will add 1,000 personnel to CDC rolls reducing CDC personnel cuts to only 1,400.
- The NIH will decrease its workforce by approximately 1,200 employees by centralizing procurement, human resources, and communications across its 27 institutes and centers.
- CMS will decrease its workforce by approximately 300 employees, with a focus on reducing minor duplication across the agency. This reorganization **will not** impact Medicare and Medicaid services.

New Organizations include:

- The Administration for a Healthy America (AHA). AHA will consolidate the OASH, HRSA, SAMHSA, ATSDR, and NIOSH, to coordinate chronic care and disease prevention programs and harmonize health resources to low-income Americans more efficiently. Divisions of AHA include Primary Care, Maternal and Child Health, Mental Health, Environmental Health, HIV/AIDS, and Workforce, with support of the U.S. Surgeon General and Policy team.
- The Assistant Secretary for Enforcement will provide oversight of the Departmental Appeals Board (DAB), Office of Medicare Hearings and Appeal

(OMHA), and the Office for Civil Rights (OCR) to combat waste, fraud, and abuse.

- The Office of Strategy (OS) will combine the Assistant Secretary for Planning and Evaluation (ASPE) and Agency for Healthcare Research and Quality (AHRQ). This new organization will conduct research that informs the Secretary's policies and evaluates the effectiveness of the Department's programs for a healthier America.
- The critical programs within the Administration for Community Living (ACL) that support older adults and people of all ages with disabilities will be split across the Administration for Children and Families (ACF), Assistant Secretary for Planning and Evaluation (ASPE), and Centers for Medicare and Medicaid Services (CMS).

For more information on today's announcement, please see the press release, fact sheet, and video included below:

- [HHS Announces Transformation to Make America Healthy Again | HHS.gov](#)
- [Fact Sheet: HHS' Transformation to Make America Healthy Again | HHS.gov](#)
- <https://x.com/SecKennedy/status/1905243470366670926>

****This email is sent from an unmonitored account. Please do not reply directly to this message.****

You are receiving this communication because you have an email account supported by the Department of Health and Human Services (HHS). HHS News cannot remove individual recipients from this distribution list. For inquiries or comments regarding the content of this email, please contact the sponsoring organization as specified in the message above. To request addition to the HHS News distribution list, please email listmaster@list.nih.gov.

Exhibit C



Dear AFGE Local 3381,

Pursuant to Article XX of the Collective Bargaining Agreement between the Food and Drug Administration, Minneapolis District Office, and Local 3381 American Federation of Government Employees, AFL-CIO, this letter serves as formal notification that the Department of Health and Human Services will be implementing a Reduction in Force (RIF) of employees whose functions are either unnecessary or virtually identical to duties being performed elsewhere in the agency.

The relevant information for the implementation of the RIF is as follows:

- Proposed effective date: May 30, 2025
- Anticipated number of employees affected: Fewer than 5

This action is being taken in accordance with President Donald Trump's Executive Order 14210, dated February 11, 2025, and HHS's broader strategy to improve its efficiency and effectiveness to make America healthier.

Questions regarding this Notice should be directed to Tom Nagy at [REDACTED]@hhs.gov. Please advise when AFGE Local 3381 would like to begin negotiations on impact and implementation.

Sincerely,

Tom Nagy
HHS Chief Human Capital Officer

Exhibit D

Learn more about **LSEG**



My News **Q**

US FDA suspends milk quality tests amid workforce cuts

By Leah Douglas

April 22, 2025 7:45 AM PDT · Updated 8 days ago

000



Sign is seen outside of the Food and Drug Administration (FDA) headquarters in White Oak, Maryland, U.S., August 29, 2020. REUTERS/Andrew Kelly//File Photo [Purchase Licensing Rights](#)

WASHINGTON, April 21 (Reuters) - The Food and Drug Administration is suspending a quality control program for testing of fluid milk and other dairy products due to reduced capacity in its food safety and nutrition division, according to an internal email seen by Reuters.

The suspension is another disruption to the nation's food safety programs after the termination and departure of 20,000 employees of the Department of Health and Human Services, which includes the FDA, as part of President Donald Trump's effort to shrink the federal workforce.

Keep up with the latest medical breakthroughs and healthcare trends with the Reuters Health Rounds newsletter. Sign up [here](#).

The FDA this month also suspended existing and developing programs that ensured accurate testing for [bird flu](#) in milk and cheese and [pathogens](#) like the parasite Cyclospora in other food products.

Effective Monday, the agency suspended its proficiency testing program for Grade "A" raw milk and finished products, according to the email sent in the morning from the FDA's Division of Dairy Safety and addressed to "Network Laboratories."

Grade "A" milk, or fluid milk, meets the highest sanitary standards.

The testing program was suspended because FDA's Moffett Center Proficiency Testing Laboratory, part of its division overseeing food safety, "is no longer able to provide laboratory support for proficiency testing and data analysis," the email said.

An HHS spokesperson said the laboratory was already set to be decommissioned before the staff cuts and though proficiency testing would be paused during the transition to a new laboratory, dairy product testing will continue.

The Trump administration has [proposed](#) cutting \$40 billion from the agency.

The FDA's proficiency testing programs ensure consistency and accuracy across the nation's network of food safety laboratories. Laboratories also rely on those quality control tests to meet standards for accreditation.

"The FDA is actively evaluating alternative approaches for the upcoming fiscal year and will keep all participating laboratories informed as new information becomes available," the email said.

Reporting by Leah; Editing by Sandra Maler Douglas; Editing by Sandra Maler and Chizu Nomiya

Our Standards: [The Thomson Reuters Trust Principles](#). [↗](#)

Suggested Topics:

Healthcare & Pharmaceuticals

Purchase Licensing Rights



Leah Douglas
Thomson Reuters

Washington-based award-winning journalist covering agriculture and energy including competition, regulation, federal agencies, corporate consolidation, environment and climate, racial discrimination and labour, previously at the Food and Environment Reporting Network.



Feedback

Read Next

Healthcare & Pharmaceuticals

US FDA approves J&J's immune disorder drug

8:01 PM UTC

Explainer

Explainer: Republicans weigh cuts to Medicaid that could dramatically affect millions

9:28 PM UTC

Healthcare & Pharmaceuticals

China suggests COVID-19 originated in US in response to Trump allegation